

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

MATTHEW SALINGER

Plaintiff,

vs.

**FIRST ADVANTAGE
BACKGROUND SERVICES
CORPORATION**

Defendant.

Civil Action No. 3:19-cv-00339

JURY TRIAL DEMANDED

COMPLAINT

I. Preliminary Statement

1. This is an action for damages brought by an individual consumer against the Defendant for violations of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681 *et seq.*, *as amended*. Under the FCRA, “consumer reports” subject to the statute’s protections include not simply those used in establishing the consumer’s eligibility for credit, but also those used for “employment purposes.” 15 U.S.C. § 1681a(d)(1)(B).

2. The FCRA was enacted “to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer’s right to privacy,” 15 U.S.C. § 1681(a)(4), by operating “in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy” of the consumer information they disseminate. 15 U.S.C. § 1681(b).

II. Jurisdiction and Venue

3. Jurisdiction of this Court arises under 15 U.S.C. § 1681p, 28 U.S.C. §§ 1331.

4. Venue lies properly in this district pursuant to 28 U.S.C. §1391(b).

III. Parties

5. Plaintiff Matthew Salinger is an adult individual who resides in the state of Texas.

6. Defendant First Advantage Background Services Corporation (“First Advantage”), is a consumer reporting agency which provides background and employment screening services, risk-management services and products, information management products and services, and decisions-making intelligence. First Advantage regularly conducts business in the Western District of Texas and has a principal place of business at 1000 Alderman Drive, Alpharetta, GA 30005.

IV. Factual Allegations

7. Defendant has been reporting derogatory and inaccurate statements and information relating to Plaintiff and Plaintiff’s criminal history to third parties (hereafter the “inaccurate information”).

8. The inaccurate information includes a false criminal history labeling the Plaintiff as a convicted felon. Specifically, inaccurate information includes, but is not limited to, a criminal conviction for three felony counts of “Assault Causes Bodily Injury” that were reduced in 2011 to misdemeanors from the State of Texas El Paso County.

9. The inaccurate information negatively reflects upon the Plaintiff and misidentifies Plaintiff as a person who has felony convictions. It appears that Defendant has not relied on up to date records, as a result of its unreasonable procedures, labeled Plaintiff as a convicted felon.

10. Defendant has been reporting the inaccurate information through the issuance of false and inaccurate background information and consumer reports that it has disseminated to various persons and prospective employers, both known and unknown.

11. Plaintiff has applied for and has been terminated from employment opportunities, including but not limited to, an employment opportunity with Allorica. Plaintiff started working with Allorica on July 19, 2019 and was later terminated on August 19, 2019 due to the inaccurate information that appears on Plaintiff's consumer reports with Defendant and that the inaccurate information was a substantial factor for the termination.

12. As a result of First Advantage's conduct, Plaintiff has suffered actual damages in the form of lost wages, lost employment opportunity, harm to reputation, emotional distress, including anxiety, frustration, humiliation and embarrassment.

13. At all times pertinent hereto, Defendant was acting by and through its agents, servants and/or employees who were acting within the course and scope of their agency or employment, and under the direct supervision and control of the Defendant herein.

14. At all times pertinent hereto, the conduct of the Defendant as well as that of its agents, servants and/or employees, was intentional, willful, reckless, and in grossly negligent disregard for federal and state laws and the rights of the Plaintiff herein.

V. CLAIMS

COUNT ONE - FCRA

15. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

16. At all times pertinent hereto, Defendant was a "person" and a "consumer reporting agency" as those terms are defined by 15 U.S.C. § 1681a(b) and (f).

17. At all times pertinent hereto, the Plaintiff was a "consumer" as that term is defined by 15 U.S.C. § 1681a(c).

18. At all times pertinent hereto, the above-mentioned reports were “consumer reports” as that term is defined by 15 U.S.C. § 1681a(d).

19. Pursuant to 15 U.S.C. § 1681n and 15 U.S.C. § 1681o, Defendant First Advantage is liable to the Plaintiff for willfully and negligently failing to comply with the requirements imposed on a consumer reporting agency of information pursuant to 15 U.S.C. §§ 1681e(b).

20. The conduct of Defendant First Advantage was a direct and proximate cause, as well as a substantial factor, in bringing about the serious injuries, actual damages and harm to the Plaintiff outlined more fully above and, as a result, Defendant First Advantage is liable to the Plaintiff for the full amount of statutory, actual and punitive damages, along with the attorney’s fees and the costs of litigation, as well as such further relief, as may be permitted by law.

VI. JURY TRIAL DEMAND

21. Plaintiff demands trial by jury on all issues so triable.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment in Plaintiff’s favor and damages against the Defendant, based on the following requested relief:

- (a) Statutory damages;
- (b) Actual damages;
- (c) Punitive damages;
- (d) Costs and reasonable attorney’s fees pursuant to 15 U.S.C. §§ 1681n and 1681o; and
- (e) Such other and further relief as may be necessary, just and proper.

Respectfully submitted,

FRANCIS MAILMAN SOUMILAS, P.C.

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